

Appl. No. 10/737,065
Amdt. Dated July 6, 2006
Reply to Office Action of April 6, 2006

Docket No. CML00435N

RECEIVED
CENTRAL FAX CENTER
JUL 06 2006

Claim Status

Claims 1, 3, 11, 15, 20, 21, 23-34, 36, and 40-42 have been rewritten. Claims 1-41 remain in the application.

REMARKS/ARGUMENTS

Claims 34-41 were rejected under 35 USC 112, second paragraph, as being indefinite due to lack of antecedent basis for "the first mobile communication device." Applicant has amended the claims to provide proper antecedent basis for the term "mobile."

Applicant notes that in making the 112 rejection Examiner recommended clarifying the claim language to indicate claims 34-41 concerned a cellular environment rather than a public switched telephone network (PSTN). Applicant also notes claims 34-41 were otherwise found allowable and claim 34-41 are similar to the other claims pending in the application. The Office Action does not specify the reasons why claims 34-41 are allowable, however.

Claims 1-4, 6-8, 11-13, 15-18, 20, 22, 26-27, and 42 were rejected under 35 USC 102(b) over Winseck (US patent No. 5,493,609).

Applicant has amended independent claims 1, 26, 34 (not rejected here), and 42 to clarify that the invention operates in a cellular environment. Specifically, the communication device claimed have been limited to "mobile" communication devices. Applicant notes that Winseck operates over a PSTN. Winseck performs voice and data communication over a conventional telephone line during a single telephone call, switching between "modes." Applicant notes, however, that Winseck's use of the term "mode" differs substantially from Applicant's modes of communicating. Winseck's modes refers to the content carried over the telephone connection, whereas Applicant's modes refer to different calling modalities. Applicant describes the differences in modes at, for example, page 3, line 17 to page 4, line 6. There it is described that a first mode may be a "standard telephony mode," and a second mode may be, for example, a dispatch call, or a data exchange mode. To further distinguish Applicant's *modes* from those used in Winseck, Applicant has amended independent claims 1, 26, and 42 to indicate that the second mode is performed by *calling* the second mobile communication device from the first

Appl. No. 10/737,065
Amdt. Dated July 6, 2006
Reply to Office Action of April 6, 2006

Docket No. CML00435N

mobile communication device using the second mode, as described beginning on page 5 at line 15 to page 6, line 3. This differs from Winseck because Winseck uses a single telephone call modality, switching between voice and data. Accordingly, in view of the clarifications made to the claims, Applicant believes the claims are now patentably distinguished over Winseck.

The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

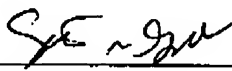
The Commissioner is hereby authorized to charge any fee due, or credit any overpayment, to Motorola, Inc., Deposit Account Number 50-2117.

Respectfully submitted,

SEND CORRESPONDENCE TO:

Motorola, Inc.
Law Department - MD 1610
8000 W. Sunrise Blvd.
Plantation, FL 33322
Customer Number: 24,273

By: _____


Scott M. Garrett
Attorney of Record
Reg. No.: 39,988

Telephone: 954-723-6449
Fax No.: 954-723-5599